

REMARKS

Claims 21-50, 53-112 and 121-135 are now pending. Claims 51, 52 and 113-120 are canceled; claims 21, 47, 57, 84, 85, 90, 98, 105, 109 and 125 are amended; and claims 129-135 are added herein.

An Information Disclosure Statement was filed with the above-identified application on April 5, 2001. Applicant received back from the Examiner a copy of the Form PTO-1449 initialed to acknowledge the fact that the Examiner has considered most of the cited, disclosed information. However, the non-patent reference listed on page 1 of the Form PTO-1449 was not initialed to acknowledge consideration of this reference. Thus, the Examiner is requested to initial and return to the undersigned a copy of the subject Form PTO-1449 acknowledging consideration of this reference. For the convenience of the Examiner, copies of the initial form and the partially initialed version thereof are attached hereto.

Applicant appreciates the courtesies extended to his representative during the November 7, 2003 personal interview. Applicant's separate record of the substance of the interview is incorporated into the following remarks.

Applicant also appreciates the indication that claim 89 is allowable. It is noted that claims 47 and 84-88 have also not been rejected in the present Office Action. As agreed in the interview, these claims are also allowable. In addition, it is noted that claims 47, 84 and 85 have been amended to be in independent form. In addition, claims 86-97, as well as new claims 134 and 135, depend from claim 85. Therefore, it is respectfully indicated that claims 47, 84-97, 133 and 134 should be allowed.

In addition, Applicant appreciates the indication that claims 125-128 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. §112, second paragraph. As discussed below, claim 125 has been amended to overcome this rejection. Therefore, it is also respectfully submitted that claims 125-128, as well as new claims 129-132, which depend from claim 125, should be allowed.

Claims 125-128 are rejected under 35 U.S.C. §112, second paragraph, based on the recitation of a "active" element and a "passive" retaining means. Claim 125 has been amended to delete the objectionable terms. In addition, the upstream and downstream directions are clearly defined with reference to the natural fluid flow. See lines 7-9 of amended claim 125. Therefore, it is respectfully submitted that the §112 rejection should be withdrawn.

Claims 21-35, 41-46, 48-71, 77-83 and 90-124 are rejected under 35 U.S.C. §103 over Zilber in view of Wolff et al. Claims 38 and 74 are rejected under 35 U.S.C. §103 over Zilber in view of Wolff and further in view of Silvestrini. Claims 36, 37, 39, 40, 72, 73, 75 and 76 are rejected under 35 U.S.C. §103 over Zilber in view of Wolff and further in view of Yamamoto et al. Applicant respectfully traverses the rejections.

Claims 21, 57, 98, 105 and 109 have each been amended to recite that the reductive effect is through direct contact with cells of the obstruction, and that, even without removing the device from the lumen, the reductive effect ceases when the direct contact ceases. None of the cited references teach or suggest a therapeutic device in which the reductive effect ceases when the direct contact ceases even without removing the device from the lumen.

With regard to claim 121, it is respectfully submitted that none of the cited references teach or suggest a therapeutic device having a cytorreductive agent positioned along a length of an element of the device, wherein the cytorreductive agent has a continuous surface both around the element and along the length of the element.

For at least these reasons, the cited references do not teach or suggest the invention of the rejected claims. Therefore, the rejections under 35 U.S.C. §103 should be reconsidered and withdrawn.

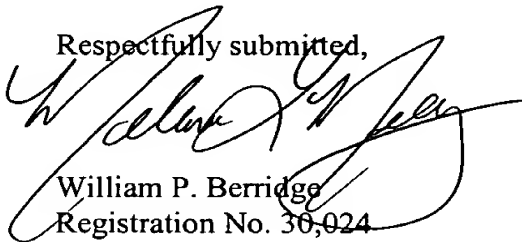
Claims 129-135 have been added to further define the invention. Claims 129-132 and 134-135 depend from claims 125 and 85, respectively. As discussed above, claims 129-132 and 134-135 should be allowed together with claims 125 and 85. In addition, claim 133 depends

from claim 57 and is allowable for at least the reasons discussed above with regard to claim 57.
Claim 133 corresponds to claim 90 before being amended herein.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 21-50, 53-112 and 121-135 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



William P. Berridge
Registration No. 30,024

Melanie L. Mealy
Registration No. 40,085

WPB:MLM/jam

Attachment:

Form PTO-1449 (as filed and as initialed)

Date: November 10, 2003

OLIFF & BERRIDGE, PLC
P.O. Box 19928
Alexandria, Virginia 22320
Telephone: (703) 836-6400

<p>DEPOSIT ACCOUNT USE AUTHORIZATION Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
--